

S. HRG. 107-1042

REAUTHORIZATION OF THE NATIONAL TRANSPORTATION SAFETY BOARD

HEARING

BEFORE THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JUNE 25, 2002

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

91-424 PDF

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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REAUTHORIZATION OF THE NATIONAL TRANSPORTATION SAFETY BOARD

TUESDAY, JUNE 25, 2002

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:45 a.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER, IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. There is an embarrassment of absences this morning, which is not deliberate, nor is it personal. It is just that one of the two parties is having a caucus, which evidently relates to the amount of time that one can serve on Committees, which would be a very important caucus. Fortunately, it is not the one that I belong to, and so I feel relatively comfortable here, and I am extremely glad to see you. We have a history which the Committee need not know about and which is nothing they would wish to know about, but my mother and you worked together, and that is something that I certainly will never forget.

It has been a long time since September 11, and we have done a lot of work on security-related issues and not much on safety-related issues, and both are important and, of course, NTSB's job.

And Good morning, Senator Nelson. This is actually a hearing that has been going on for about 25 minutes.

[Laughter.]

Senator ROCKEFELLER. We started about 30 seconds ago. You do a superb job at safety, but it is in danger of being bypassed, in a sense, or put backwards a little bit because of the question of security. We cannot let that happen, and I think that under you, Ms. Blakey, the NTSB has done excellent work, and we have every expectation that will continue.

Now, I think it is essential that we give you the tools to do what you need to do, and in this case you have some requests. You need additional staff, and I want you to talk about that, and I also think that you are looking at building a facility where you cannot only train your own people but you can train other people, and a new facility is not inconsequential in these budget days, but everything that has gone on really has had to do with an investigation of accidents, which has become incredibly important in spite of the sort of preoccupation with security.

So funding for this project is needed and it is appropriate, in my view at least, and we will have to see how things proceed. You want some statutory changes, and one of these would give you priority in marine investigation. It is a very interesting subject to me, because you currently share this with the Coast Guard. Two years ago we looked at this issue. We directed NTSB and the Coast Guard work together. Was that a really naive mistake on our part, or does it mean the NTSB or the Coast Guard, the one or the other or the both, conduct the usual business of Washington. I am interested in your views on that, and we were hoping to get a memorandum of understanding to address this, quote, jurisdictional issue, all of which seems to have less meaning post 9/11.

And then finally you request language that would relieve NTSB of the responsibility for family assistance in cases of accidents caused by intentional criminal acts, and would give responsibility for family assistance in these circumstances to the FBI, and I think we want to talk a little bit about that to make sure (1) that it is the right thing to do, and (2) that the FBI could do it, and it's not just putting-off the responsibility but, in fact, something the FBI would be in a position to do. They are fairly busy folks these days.

I think that NTSB has been doing a lot better job over the last few years, and I would be comfortable transferring such responsibility to another organization from that point of view, but I really would want to make sure that the so-called new organization could handle the responsibility, because dealing with families of transportation accident victims is, as you know, very serious and deep stuff.

So I hear what you're saying, I'm glad you're here, and I'm glad that Senator Nelson is here, and he always has important things to say and will want to do so at this very instant.

Senator NELSON. Mr. Chairman, I follow your enlightened leadership.

Senator ROCKEFELLER. You see how we are around here.

[Laughter.]

Senator ROCKEFELLER. We welcome your statement.

STATEMENT OF HON. MARION BLAKEY, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Ms. BLAKEY. Good morning, Chairman Rockefeller, Senator Nelson. I am very pleased to be before you today representing the National Transportation Safety Board. As you know, we have a limited time this morning, so I will submit my longer comments for the record and simply take a few moments to summarize our request, which Chairman Rockefeller already clearly has a good grip on at this point.

As you know, it is my responsibility to advance the board's critical safety mission, a mission that can't be achieved alone. In fact, the help of this Committee, the support you have given over the years, has been critical in making possible the work that we have undertaken. So as I approach you today with these requests, I think we are keeping a collective objection in mind in this agency's reauthorization.

The Board's request asked essentially for three things. We ask for, number one, the budget and the personnel levels to sustain the

NTSB's training academy. We are very excited about this new academy, which is scheduled to open in the fall of 2003.

Second, we are looking for a clarification of our family affairs responsibilities when transportation accidents that involve intentional criminal acts. And third, we are seeking full independent investigative authority for the marine accidents that we investigate.

First, the NTSB requests a budget level capable of sustaining the NTSB's soon-to-be-built academy. We have broken ground and the walls are going up. The NTSB has for many years, of course, provided training for its investigators and for other accident investigators from foreign lands who request our assistance. The board also provides family affairs training, and we provide assistance to international agencies and groups on that front as well.

The academy, as I say, is expected to open next fall, and it will enable us to consolidate and formalize all of the training activities that we are undertaking and expand them. The academy is also going to house the TWA-800 reconstruction that I know you are familiar with. We will be rebuilding it at the Academy. We have on-site as well as state-of-the-art classrooms, a simulation court, all of the things that are really going to make this a first-rate accident investigation and training academy for safety.

Helping to ensure the best investigative techniques and high standards worldwide at present is essential for thorough, independent accident investigations, and I stress this because we are talking about an increasingly interdependent global system, and therefore the extensions that we make to others abroad as well as to our own and to a larger group of first responders in training them what needs to happen in accident sites, all of this is what the academy is all about.

Next, we do request your assistance in clarifying our role in terms of our Office of Family Affairs when a disaster is deemed criminal, and the investigation at that point is transferred to the FBI. We have got good reasons for this. As you know, the Aviation Family Assistance Act triggers our family affairs response regardless of the suspected source of the accident. The intent of the act is to provide family assistance without any delay due to uncertainty about which agency ultimately may take control. The Board fully supports the letter of this and the spirit of the law, and we think the request we are making of you today is consistent with both of those.

Once an investigation, however, is transferred to the FBI, any uncertainty about the lead agency at that point is resolved, and the Board believes that responsibility for family assistance should be transferred as well. At this point, the accident site is deemed a crime scene, and the situation changes. Access is restricted, information about the investigation becomes tightly controlled, and understandably so, much more so than when the NTSB has investigative authority.

For this reason, the FBI's own Office of Victim's Assistance is in a better position to make decisions regarding victim recovery, identification of remains, and the extent to which information can or cannot be shared with the families of victims. The events of September 11 demonstrated that these decisions should be made by the agency that is leading the investigation. The NTSB's Office of

Family Affairs will be ready and willing to provide any assistance that the FBI requests, but they do need to be the lead.

Finally, to turn to the third aspect of our request today, the NTSB requests full, independent investigative authority in the marine accidents we investigate. Currently, we have such authority in all modes except marine—aviation, railroad, pipeline, highway, railroad. The NTSB's independent accident investigation authority has never interfered with any of DOT's statutory responsibilities.

In fact, we have developed a very healthy relationship with agencies such as the FAA and the FRA, which has been significant in improving transportation overall. All of the other modes of transportation have benefited from our investigations for over 30 years, and passengers and crew who rely on marine transportation, as well as the public that is affected by maritime accidents, should be given the full benefit of a system that is similar to that in terms of checks and balances.

It is important to recognize that in granting the NTSB's request, it will in no way fundamentally affect the responsibilities of the Coast Guard. In fact, we ask only to examine those accidents that pose the most significant risk to the traveling public, a very limited number of accident investigations that offer the greatest potential for yielding safety improvements.

Why? Because our goal is to protect the American public by preventing future accidents. It is our sole mission. It is what makes us different, and for this reason we must have the authority to lead a limited number of accident investigations which we believe will allow us to best improve safety in the marine area as well.

As a result of NTSB investigations, a number of important marine safety improvements have taken place that may not otherwise have resulted from Coast Guard investigations. This is so because the Coast Guard's focus is primarily on compliance with current regulations which, of course, it develops and enforces. For example, as a result of Safety Board investigations, large cruise ships are now required to have sprinkler systems, smoke detectors, and improved permanent fire barriers.

In addition, all commercial fishing vessels are required to carry emergency radio beacons, survival suits, and life rafts, and seven cruise lines have now either installed or are in the process of installing locally sounding fire alarms which will alert passengers and crew in their quarters when there may be a fire threat.

We commend the Coast Guard for its actions in making these recommendations a reality. They do have the responsibility for carrying it out. However, the current investigative relationship between the Coast Guard and the NTSB frequently does have a detrimental effect on NTSB investigations. Because the Coast Guard investigation focuses on enforcement and penalties, it makes it difficult for the NTSB to obtain the kind of cooperation we often employ, and we rely on in terms of all the parties to the accident to determine both the probable cause of the accident and to develop safety recommendations to improve marine safety for all Americans.

When we investigate accidents, there is really no need to duplicate the effort as well. Currently, when the NTSB investigates a marine accident, two reports are issued, one by the NTSB, one by

the Coast Guard. In today's climate, when we are talking about safety and security being threatened on a daily basis, we need to maximize our resources and avoid redundancy that affects not just our agencies but others at the State and local level and in the private sector who receive these reports and respond to the recommendations and the analysis.

As you are aware, during our last reauthorization we requested congressional assistance in resolving this issue. You listened to our request, and you responded. The National Transportation Safety Board Amendments Act of 2000 included a deadline of 1 year for the revision of the interagency memorandum of understanding to clarify with the Coast Guard the circumstances in which NTSB would lead marine investigations.

Over the past year, both agencies have tried. The NTSB and the Coast Guard met on numerous occasions and exchanged proposals to amend the MOU. Unfortunately, the negotiations between the agencies appear to be at a standstill, and for this reason we are again asking for congressional intervention. Although the board is asking for congressional intervention, I tell you, we continue to try. I have discussed the matter with Secretary Norman Mineta. I plan soon to meet, in fact, with Deputy Secretary Michael Jackson and the new Commandant, Admiral Tom Collins.

Mr. Chairman, I would leave the Committee with one last thought regarding our request. The NTSB is a very small agency relative to the Coast Guard, and this has been a significant problem for us, with a great deal of time and effort invested in it for more than 10 years. That is how long we have been at this.

Currently in the marine area the NTSB operates with less independence, and less efficiency than in any other mode. If we are to keep the public trust that results from fully independent accident investigations, we need your support to permit the NTSB to lead a small number of marine investigations.

I thank you for the opportunity to appear before you, and I would be happy to respond to any questions you have. Thank you.

[The prepared statement of Ms. Blakey follows:]

PREPARED STATEMENT OF HON. MARION C. BLAKEY, CHAIRMAN,
NATIONAL TRANSPORTATION SAFETY BOARD

Good morning Chairman Rockefeller and Members of the Committee. I am pleased to appear before you today on behalf of the National Transportation Safety Board (NTSB) regarding our request for reauthorization.

Mr. Chairman, I was extremely honored when President Bush nominated me for the position of NTSB Chairman—a position I have held for about nine months. I believe the agency has a critical mission, to protect and advance public safety in all modes of transportation, and I am more and more impressed with the men and women of the NTSB and the work they do to advance that mission each and every day. I would be remiss, however, if I did not acknowledge that many of the accomplishments of the NTSB would not have occurred without the continued support of this Committee.

As you know, the work of the NTSB was last reauthorized in 2000, and this Committee supported many new Safety Board initiatives, such as true overtime for Safety Board investigators at accident sites, the authority to enter into agreements to be compensated for our instructional or analytical services, and the clarification of the Department of Justice/NTSB relationships during accident investigations. I was on-scene at the American Airlines flight 587 crash in Queens, New York, and I can personally tell you that the on-scene relationship between the NTSB and FBI worked well. I thank you for your support and I look forward to working with you to further the interests of transportation safety.

SAFETY BOARD ACTIVITIES

Before I present our request for our three-year reauthorization, I would like to highlight several Board activities since our last reauthorization hearing. The Board continues its core mission of investigating accidents, issuing safety recommendations, and coordinating family affairs activities. Since the Board's last reauthorization appearance in July 1999, until mid May, 2002, we have investigated over 5,988 aviation accidents, issued 4 major aviation reports, including TWA flight 800 and American Airlines flight 1420, and 3 studies; 111 highway accidents and issued 5 major highway reports, including the motorcoach accident at New Orleans; 13 marine accidents, one special investigation, and issued 6 major marine reports, including reports involving the *Ecstasy* the *Morning Dew*; 8 pipeline/hazardous materials accidents and issued 5 major pipeline/hazardous materials reports, including as the pipeline explosion in St. Cloud, Minnesota; and 56 railroad accidents, and issued 15 major railroad reports, including the Amtrak grade crossing accident in Bourbonnais, Illinois. We have issued a total 645 safety recommendations. The modal breakdown follows: aviation—270; highway—124; intermodal—18; marine—84; pipeline—30; and railroad—119.

The Safety Board has also begun work on the NTSB Training Academy, a major training initiative to increase the knowledge and skill of our investigators. As you may recall, in 1999 the Rand Corporation issued a report that strongly recommended that the Safety Board devote more resources and staff to keep its investigators on the cutting edge of investigative technology, skill, and performance.

In the aftermath of the tragedies that occurred on September 11, 2001, for many weeks the Board assisted the Federal Bureau of Investigation (FBI). Over 60 Safety Board employees worked around the clock in Virginia, Pennsylvania, New York, and at our headquarters in Washington, DC., assisting with aircraft parts identification, searching for and analyzing flight recorders, and working with the air carriers to assist the victims' families. Although Safety Board employees frequently view the aftermath of aviation disasters, nothing in their experience prepared them for the magnitude of the September 11th devastation. I applaud all involved, and want to take this opportunity to publicly commend them for their accomplishments.

Safety Recommendations

The most important results of any accident investigation, no matter what mode of transportation, are the safety recommendations. It is clear that adoption of our safety recommendations saves lives.

The Safety Board currently has over 1,100 open safety recommendations, and some of them have been open for a number of years. Approximately half of the recommendations are to the Department of Transportation (DOT) and its modal administrations, with most of the remaining half to the private sector or the States. Because we have been typically receiving progress reports on only about one-third of our open recommendations, we are working with the DOT modal administrations to get an update on the status of each and every one of them and to ensure that in the future we receive at least an annual report. As part of this effort, for all that remain open I have begun to meet with each of the modal agency administrators to discuss which of the open recommendations can and should be accomplished within the next two years, and have already met with the Administrators of the National Highway Traffic Safety Administration (NHTSA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA). These meetings have been productive and are helping to accomplish the goals of a number of open safety recommendations.

I am also focusing special attention on our advocacy and outreach activities. This includes working with consumer and industry organizations to garner support for our safety recommendations. In addition, we are going to step up our efforts to work with the states to implement recommendations we have made to them. Our Board is launching a new program to help. The five Members have each agreed to be responsible for ten states. Board members will meet with state officials and departments to promote the passage of legislation. We will also address open safety recommendations, speak at public events, target print, radio and television media, and establish contacts with important state groups.

We are confident that our Members' state strategy will prove to be successful, and I believe these steps will reduce the time it takes—currently a five-year average—to implement the improvements that we see as necessary for the safety of the traveling public.

Aviation

As you know, the NTSB investigates every accident involving civil aircraft, accidents involving both military and civil aircraft, and aircraft accidents involving pub-

lic aircraft other than aircraft operated by the Armed Forces or by the United States intelligence agencies. On-going NTSB major aviation investigations include crashes involving: Alaska Airlines flight 261 near Port Hueneme, California; Emery Worldwide Airlines flight 17 in Rancho Cordova, California; Southwest Airlines flight 1455 in Burbank, California; and American Airlines flight 587 in Belle Harbor, New York. The Safety Board plans to hold a public hearing on the American Airlines accident in our Board Room and Conference Center in October 2002.

The Safety Board also recently sent investigators to assist in the foreign aviation accidents that occurred: May 25, 2002, near Makung Island, Taiwan, involving a China Airlines Boeing 747; May 7, 2002, in Dalian, China, involving a China Northern Airlines MD-82, and Tunisia, involving an EgyptAir Boeing 737; May 4, 2002, in Nigeria involving an EAS Airlines BAC 1-11; April 27, 2002, in San Salvador involving a Centurion Air Cargo DC-10; and the April 15, 2002, accident involving an Air China Boeing 767-200 in Pusan, South Korea.

A number of recent aviation safety accomplishments that have resulted from NTSB aviation investigations:

Runway Safety—Runway safety has been a concern of the NTSB for many years, and we are pleased that recent accomplishments have been made in this area as a result of NTSB investigative activities—some without the need for safety recommendations. For example, in December 1999, an Emery DC-8 collided with a parked Gemini DC-10 while taxiing on a ramp at Indianapolis International Airport, resulting in substantial damage to the DC-8 aircraft. As a result of the investigator's discussions with the FAA and the ramp control and ground handling firm, ground operations at the airport were revised.

Other runway safety accomplishments resulted from suggestions made by NTSB investigators following potentially catastrophic incidents in New York, Denver, Philadelphia, Chicago and Juneau. Remedies ranged from improved pushback and ramp and controller procedures, to proper runway markings and safety education for ground crews that service air carriers.

Lubrication and Inspection Procedures for Horizontal Stabilizer Acme Screws and Acme Nuts—The NTSB investigation of Alaska Airlines flight 261 raised concerns regarding industry maintenance practices associated with the MD-80's horizontal stabilizer trim system and potential adverse effects caused by the use of inappropriate greases or mixtures of incompatible greases. As a result of issues raised in our investigation, the Federal Aviation Administration (FAA) ordered inspections of the stabilizer control mechanisms of over 1,000 aircraft and held a forum to address grease and lubrication issues. The FAA is also working with the manufacturer to rewrite the aircraft's lubrication procedures.

Pilot Training on Transport-Category Airplanes—The investigation of the American Airlines flight 587 crash in Belle Harbor, New York, has a number of different areas of inquiry, but one aspect has raised questions regarding pilot training programs. Many programs do not include information about the structural certification requirements for the rudder and vertical stabilizer on transport-category airplanes. The NTSB issued a recommendation requesting that the FAA require the manufacturers and operators of transport-category airplanes establish and implement pilot training programs that address the issues of pilot rudder inputs we identified in our recommendation letter, and to review all existing and proposed guidance and training provided. The Safety Board notes that the FAA has taken positive action regarding our recommendations. In an April 2002 letter, they advised that they had reviewed operators' training programs, issued a notice to principal operations inspectors of the potential subsequent effects on the vertical stabilizer resulting from improper rudder use, and contacted manufacturers and industry organizations to inform them that it shares the Board's concern regarding pilot training on the use of the rudder in transport-category airplanes.

Highway

Until recently, the Board's Office of Highway Safety has, until recently, conducted in-depth investigations of single, major accidents and issued safety recommendations on issues resulting from those investigations. The accidents investigated generally involved large loss of life and property damage, but in many cases may not have been representative of the typical highway accidents occurring daily, nationwide. Now, because of the Board's limited highway staff, we devote our resources to those accidents that have a significant impact on the public's confidence in highway transportation safety and highlight national safety issues. Currently under investigation are four school or commercial bus accidents, two 15-passenger van accidents, a grade crossing accident, a work zone accident, an accident that occurred on the Washington Beltway on February 1, 2002, when the driver of an SUV lost control of her new vehicle in windy weather while talking on a cell phone, and the

May 26, 2002, collapse in Oklahoma of a bridge on Interstate 40 after being struck by a barge. We are also conducting a special investigation regarding 15 passenger vans.

The Safety Board is also continuing a high level of advocacy work with the states on a number of important highway safety issues, including booster seats, hard core drunk driving, graduated driver licensing, the need for personal floatation devices and boating instruction.

The NTSB's Office of Highway Safety is focusing its resources on identifying trends from the investigation of similar accidents to develop potential root causes and appropriate countermeasures. As you may recall, in 1999, the NTSB embarked on a multi-year initiative to improve heavy vehicle transportation safety, and conducted four public hearings on truck and bus safety issues. As a result of those hearings, individual reports and a number of safety recommendations on each issue either have been or will soon be issued, including:

- Technology applications for heavy vehicle safety;
- Adequacy of the commercial drivers license medical certification process;
- Intrastate truck safety; and
- Collision warning technology.

A number of recent highway safety accomplishments have resulted from NTSB highway investigations:

Heavy Trucks—In October 2000, a Freightliner dump truck lost primary braking capability near Lincoln, Nebraska, killing two people. Our investigation revealed that a brake pin had fractured, rendering the service brakes inoperative. Working closely with the NTSB, Freightliner, in November 2000, voluntarily recalled approximately 133,000 trucks to replace the defective brake pedal push rods without a safety recommendation being issued.

Highway/Railroad Grade Crossing—In March 2000, a school bus carrying elementary school children failed to stop at a railroad grade crossing and was struck by a CSX freight train. The accident resulted in the deaths of three students and three serious injuries. As a result of NTSB discussions with CSX, the railroad corrected a sign error, replaced a missing whistle post at another crossing, surveyed signs in the rail subdivisions for accuracy, and reiterated to employees rules dealing with the installation, maintenance and inspection of crossing signs.

Marine

The NTSB investigates major marine casualties occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, under regulations agreed to by the Board and the Department of Transportation. On-going marine investigations include accidents involving the grounding of the U.S. passenger ferry *Finest* during an approach to a New Jersey ferry terminal; the collision of the U.S. nuclear attack submarine *USS Greeneville* with the Japanese fisheries training vessel *Ehime Maru* near Pearl Harbor, Hawaii; the fire aboard the passenger ferry *Seastreak* in New York, New York; and the collision of a U.S. Coast Guard patrol boat with the small passenger vessel *Bayside Blaster* in Miami, Florida. We are also conducting a special investigation regarding fire standards for small passenger vessels.

Several recent marine safety accomplishments have resulted from NTSB marine investigations:

Cruise Ship Safety—Because precious time is often lost between the detection of smoke and the time that passengers or crew are ultimately notified of the problem, the NTSB repeatedly has urged that the cruise ship industry install smoke alarms that sound where the smoke is detected, not just in a remotely located control room. Over the last year, we received commitments from several cruise lines to comply fully with our recommendations. Combined, these seven cruise lines operate 50 cruise ships with a capacity to carry more than 76,000 passengers and approximately 30,000 to 40,000 crew. As a result, improved shipboard fire safety will be available for more than three million passengers and more than a million crewmen annually.

Permanently Moored (Gaming) Vessels—In September 2000, following our investigation of the near-breakaway of a gaming vessel moored in the Mississippi River in St. Louis, Missouri, the Safety Board issued recommendations to improve the safety of permanently moored gaming vessels on U.S. navigable waters. According to Coast Guard data, there are 30 permanently moored gaming vessels on the Mississippi and Missouri Rivers, with an aggregate capacity of 50,000 people. Coast Guard policy, established after this accident, requires owners/operators of permanently moored vessels to protect them from waterborne and current-related risks. Failure to comply with this requirement will result in vessels not being designated

as a permanently moored vessels. The vessels will also remain under Coast Guard jurisdiction and require a certificate of inspection.

Pipeline/Hazardous Materials

The NTSB investigates pipeline accidents in which there is a fatality, substantial property damage, or significant injury to the environment. Selected areas of emphasis include accidents involving aging pipeline infrastructure failures, government pipeline safety regulatory programs or industry practice inadequacies, accidents involving recognition or response delays, and environmental damage following the release of a significant amount of product that threatens water supplies. On-going major NTSB pipeline investigations include accidents that occurred in Bellingham, Washington, involving Olympic Pipeline Company; Chalk Point, Maryland, involving Potomac Electric Power Company; and Carlsbad, New Mexico, involving El Paso Natural Gas Pipeline Company.

Several recent pipeline safety accomplishments have resulted from NTSB pipeline investigations:

Pipeline Integrity—The continued operation of pipelines with discoverable integrity problems has been a recurring issue in Safety Board investigations and numerous safety recommendations have been issued to address our concerns. We are encouraged that the Research and Special Programs Administration (RSPA) recently published final rules that will require integrity assessments for liquid pipelines in high consequence areas, and requires operators to assess the integrity of pipelines using in-line inspection tools, pressure tests, or other technologies that will provide equivalent results.

Data Collection—The Safety Board has been concerned with RSPA's data collection process. Over the years, we have made recommendations to correct trend analysis and pipeline operator performance evaluation inadequacies. In May 2001, the Office of Pipeline Safety (OPS) issued new accident reporting requirements for gas transmission pipelines, and in January 2002, OPS issued new accident reporting requirements for hazardous liquid pipelines. We believe the new reporting requirements will include information that will assist the Safety Board with operator evaluation and trend analysis.

Excavation Damage—Excavation damage prevention was removed from the Board's "Most Wanted" list of safety issues last month. We are encouraged by OPS research to improve pipeline location technologies, improve inspection technologies to find pipe defects, monitor for mechanical damage and leaks in real time, and improve technologies to avoid damage to underground facilities and to increase the security of pipelines. We are hopeful that this on-going research, which addresses many Safety Board recommendations, will lead to increased excavation prevention safety.

Railroad

The NTSB investigates railroad accidents in which there is a fatality or substantial property damage, or that involve a passenger train. There are over 6,500 railroad accidents and incidents reported annually. Because of limited resources, the Safety Board investigates fewer than 25. On-going major NTSB railroad investigations include a CSX tunnel fire in Baltimore, Maryland; an Amtrak derailment in Crescent City, Florida; a grade crossing accident involving an Amtrak train and a tractor-trailer in Coosawhatchie, South Carolina; a collision between a freight train and a commuter train in Placentia, California; and a derailment that resulted in the release of hazardous materials in Minot, North Dakota. The Board will hold a public hearing on the Minot accident in our Board Room and Conference Center in July 2002.

Several recent railroad safety accomplishments have resulted from NTSB railroad investigations:

Freight Train Brakes—Significant progress on freight train braking systems was made with the promulgation of new power brake regulations in 2001. The FRA issued new regulations that close several outstanding recommendations concerning cold weather operations, steep-grade train handling practices, and dynamic brake requirements to prevent "run-away" trains. Additionally, train crews will be provided with training in the use of air brake retaining valves and will be required to have knowledge of their trailing tonnage. The regulations address many Safety Board recommendations issued regarding this subject.

Positive Train Control (PTC) Since its formation in 1967, the NTSB has investigated numerous major collision accidents, most of which could have been prevented had PTC systems that ensure safe train separation been in effect. We are currently investigating a number of railroad collision accidents that may have been prevented had PTC systems been in place, including a recent head-on collision that

occurred between a freight train and a commuter train in Placentia, California, on April 23, 2002. These systems have been developed and are being tested. For example, Amtrak employed a 118-mile PTC system along the high-density Northeast Corridor between New Haven, Connecticut, and Boston, Massachusetts. Amtrak has installed another 76 miles of PTC on a Michigan line. Additional projects include an advanced speed enforcement system with PTC capabilities, which is planned for installation on 540 track miles owned by New Jersey Transit. In addition, a positive train control system is being designed, tested, built, and installed on a 123-mile section of the high-speed Chicago-St. Louis Corridor by the AAR in cooperation with the Illinois Department of Transportation.

NTSB Board Room and Conference Center

Finally, since the Board's last reauthorization, the NTSB inaugurated in Spring 2000 a new Board Room and Conference Center at its headquarters. The new complex significantly increases the Board's space and capabilities for Board meetings and other agency events. The main auditorium holds close to 400 people, compared to about 100 in the old facility. It also includes state-of-the-art electronics equipment and areas designed for the news media, family members, private conferences and meetings. Because of the size of the room, we are now able to hold investigative public hearings at the facility. It is estimated that we saved taxpayers over \$100,000 in calendar year 2000 when we held the Alaska Airlines flight 261 accident hearing in our Board room.

REAUTHORIZATION REQUEST

Mr. Chairman, the Board is requesting two changes to its authorizing authority. Attached to our statement is a copy of our formal request, but the following is a summary of each issue.

Marine Priority

This amendment would give the NTSB the same priority in marine accident investigations as it has in all other modes of transportation. The NTSB included a proposal in our Senate reauthorization request of 1996 for NTSB marine investigations to have priority over other federal investigations. In 1999, the NTSB included another request in our reauthorization on this issue to clarify the relationship with the Coast Guard. The Congress responded with the National Transportation Safety Board Amendments Act of 2000, which included a deadline of one year for the revision of our inter-agency Memorandum of Understanding (MOU) with the Coast Guard and language directing the agencies to clarify the circumstances for NTSB to lead investigations.

We have met with the Coast Guard on numerous occasions and exchanged proposals to amend the MOU. Our most recent proposal submitted to the Coast Guard would have enabled the NTSB to elect to take the lead in no more than five accidents per year. The Coast Guard has thus far indicated no inclination to permit NTSB to elect leadership in any investigation, and the negotiations between the agencies are currently at a standstill.

Because it appears that our two agencies will not reach an agreement, and we will not find a mutually acceptable formula that would permit NTSB to elect leadership in even a limited number of accidents, we are again asking for congressional intervention.

Be assured, Mr. Chairman, that although the Board has asked for congressional intervention, our negotiations have not stopped. In fact, I plan to soon meet with Deputy Secretary Michael Jackson and the new Coast Guard Commandant Admiral Thomas Collins to pursue the matter.

Clarification of Family Affairs Responsibilities in Intentional Criminal Acts

Since passage of the Aviation Family Disaster Assistance Act in 1996, the NTSB has been responsible for coordinating Federal efforts to assist family members following an aviation disaster. The legislation wisely triggers our family affairs response regardless of the cause or suspected cause of the occurrence. The intent was to provide family assistance without any delay due to uncertainty about which agency would lead the investigation. Uncertainty in Federal response to meet the needs of families would lead to confusion, neglect, distrust, and further traumatize the next of kin of the victims.

However, when investigative responsibility is transferred to the FBI, the NTSB believes that the responsibility for family assistance should be transferred as well. When the FBI has investigative priority, the site of the crash is considered a crime scene and access to the scene and release of information about the investigation are much more restricted than when the NTSB has investigative priority. Following the events of September 11, 2001, it was apparent that an agency that is not respon-

sible for the investigation cannot be responsible for coordinating family affairs support, such as facilitating victim recovery and identification or briefing the families.

Additionally, since September 11th, the FBI has reorganized its Office of Victims Assistance, hired a program director to work with the NTSB and other agencies to support victims and their families following terrorist/criminal events resulting in mass fatalities, and is in the process of hiring more than 100 victim assistance staff that can be organized into quick response teams in the event of mass fatalities. Although the NTSB is certainly ready to assist, we believe that the FBI and Department of Justice should undertake family assistance responsibilities when the event is deemed criminal.

NTSB Academy

The NTSB's reauthorization request also provides for budget and personnel resource levels to sustain the NTSB's Academy. The NTSB has for many years provided training for its investigators and other transportation accident investigators from around the world. We also provide training for other U.S. and international government agencies and industry representatives on how to comply with the Aviation Family Disaster Act following major transportation accidents. The academy will enable the NTSB to consolidate and formalize all NTSB training activities. In fact, we are currently enrolling major domestic and international air carriers in a family assistance course to be held next month. The facility will also house the reconstruction of the TWA flight 800 accident aircraft and provide state-of-the-art classrooms and laboratory space for accident investigation.

A 20-year lease agreement with The George Washington University to build a 72,000 square foot training academy in Loudoun County, Virginia has been signed and construction began in December 2001. It is expected that the Academy will open in fiscal year 2003, and we are looking forward to the opportunities it will provide to advance transportation safety worldwide.

Mr. Chairman, that completes my testimony and I will be happy to respond to any questions you may have.

Senator ROCKEFELLER. Thank you very much. I have just a couple of questions. I gave a speech, which I thoroughly enjoyed giving, several weeks ago in which I sort of took apart the European Community for its protectionist policies on aircraft, and was visited by most of Europe within 2 weeks after that, and one of the things that I talked about, not to enlarge my role, was the question of aerospace research. You have to have the best in order to do what you need to do, whether it is American Airlines Flight 587, or whatever. Presumably you have the vertical stabilizers, the composites, all of those kind of things as questions.

Now, you can use NASA, you can use private labs, and you presumably have some of your own capacity. I would like to understand two things. One is, what do you have in the way of research, and to the extent that you do not have it, where do you have to go, and can you achieve access in the real time that you need it, let us say, into, for example, NASA or private labs? Can you get what you want when you need it?

Ms. BLAKEY. That is a good question, and a very important one. As you know, we have a small staff, less than 450 on board, and it would be impossible even under the best of circumstances to cover all possible technical issues with state-of-the-art knowledge, which is really exactly what is required in terms of research, and getting to the bottom of issues in these accidents.

I have been very please so far by the kind of response we have received. Certainly we do have some depth on our own staff in terms of composite materials, and in terms of knowledge, therefore, of what is a coming trend, if you will, in aircraft manufacture, where more and more composites are taking the place of metal in terms of the overall shape of our aircraft today.

That said, we have certainly gone outside, and we did so immediately following the crash of 587. We turned to NASA, because they have had, as you know, extensive experience in spacecraft, as well as support in terms of military aircraft for over 20 years, and doing analysis and research and R&D on composite materials, and therefore we have had the vertical stabilizer, the rudder down at NASA Langley all these months, where they have been doing initially noninvasive testing, and now we are actually moving toward the more destructive forms of testing to look at the question of what kind of failure may or may not have taken place in terms of composite materials.

I have also been pleased, though, also by how the private sector stepped up, and others have volunteered their help. I will tell you that right now we in fact are using a very large CAT scan, that the only one we know about is in the private sector. It is owned by Ford Motor Company and we have, therefore, the vertical stabilizer out at Ford at the moment, where we are looking at the questions of, could delamination have occurred somewhere down in the depths, because that machine is really able to look at each and every layer and analyze that for us in a way that would not have been possible otherwise, and so I use those as examples, but we have also turned to Sandia.

We have looked to others to give us assistance on this crash, and I see that being more and more the role that the board will look to for those both in terms of Government research agencies as well as the private sector.

I would also mention one other thing, which is one reason why I put such emphasis on and stock in our academy. It will have a laboratory facility, which I think will give us much more capacity than we have right now. It will be larger, it will have more state-of-the-art equipment, but also, because it is a teaching facility, I think it will have a reason to draw the best and the brightest from around the world to come there to teach.

What we are looking to do is to bring our investigators up with the knowledge of those individuals from around the world to really state of the art as the academy moves forward, and I think that is going to be an exciting opportunity to have, if you will, the kind of synergy and cross-fertilization that an institution like that can provide.

Senator ROCKEFELLER. I am encouraged by your answer, but it still leaves open the question. It is human nature, and the NTSB-Coast Guard situation is an example of that, that when, whether it is a Government agency or a private lab, one which is busy, underfunded and overwhelmed and the other of which is overwhelmed, needs to make money, and has things that they are working on at the time that you request their assistance in research, that being private labs, you paint a picture wherein in the sense that you get the immediate response that you want.

Now, I can understand that in something where 260 people are killed. There are a lot of accidents that you investigate that are less than that which also require less traumatic—less dramatic, not traumatic, but dramatic at that. Do you get the same immediate response? Because if you do, it sort of works against institutional

human nature, so I want to be sure that you are not just praising your partners here.

Ms. BLAKEY. Well, my experience is limited to the last 9 months, because that is how long I have been on the job, so my first-hand knowledge of this, therefore, does not go back that long. But that said, certainly the second worst crash in U.S. aviation history has galvanized help and support in a way that I am not aware of anyone failing to step up to the plate when we have asked for assistance. The FAA has contributed. Certainly we have had help from the parties involved, a lot of support out of Toulouse, as you would appreciate, since it was an Airbus aircraft, and so I am not aware of any less than complete and immediate response when we have asked for it.

Some things have not happened as fast as we would like for them to have because there have been technical issues involved. I could go down a number of things that may have been a bit slower than we would have liked, but as a question of willingness and a question of resources, I do not think we have experienced that.

There have been times when we would like to have the contracting for things move forward more quickly. In fact, I know that we are being held up right now pulling a piece out of Jamaica Bay because we have not been able to get the actual contract let yet, so there are moments like that, but I think they are endemic to Government work, and any help you could give us, obviously, on that front we would be very pleased.

Senator ROCKEFELLER. I think Senator Nelson and I would both agree that if you run into problems on that you should use us to be helpful, because I think instant response is all you can do, and Senator Nelson has to leave very shortly, so I will call on him.

**STATEMENT OF BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator NELSON. I am just glad to be here to support you, Mr. Chairman, and I have to chair the Foreign Relations Committee. I have elevated in seniority considerably, but they could not find anybody else to chair the meeting.

I think that this little agency is an example of what Government should be about, and the kind of cooperation that you have with another little agency known as NASA is, again, what we like to see, the kind of efficiencies. That as a little agency that is having difficulty with its budget as well, and yet you all perform such a major service to the country, indeed, to the world. You have my support.

I had a glimpse into this agency years ago from a long-time friend named Joe Nall of North Carolina, who lost his life on one of the trips in an airplane accident having to do with the NTSB, so I have been a fan of this agency for some period of time.

Thank you, Mr. Chairman.

Senator ROCKEFELLER. Thank you, Senator Nelson. Have a good hearing.

On the Coast Guard situation, this is what, a 10-year process?

Ms. BLAKEY. It has been 10 years, yes.

Senator ROCKEFELLER. It is perplexing, and I can see two reasons for it. One, I read my paper this morning and they are getting

a big bump in budget. You know, hopefully you will get something, too, but I did not read about it in the paper, and there are two answers, possible answers at least, and there may be more, to this. One is the one I suggested, and that is the classic bureaucratic behavior. I have this, I possess this, I will not change it.

We have that up here. We have people from regulatory agencies that come and virtually admit that things do not work, but they said, if you want us to do things differently, then change the law, which then throws you immediately into the second problem, which is the politics involved with the Coast Guard and this Committee and others.

I have spent a long time in West Virginia and have never detected an ocean, but we nevertheless support the Coast Guard through our tax dollars, and I care about that. I would really be interested—I mean, it is just very annoying when you have a lot of people dying, or a few people dying, or people injured, and you have an accident and you need an investigation, and then you get two agencies of Government, both of whom are sworn to work for the people of the country, fighting.

Now, it may only be one party. It may be only one party, but I think our general view in talking with Sam Whitehorn behind me is that this is going to get straightened out or we are just going to give you the authority, and the Coast Guard is going to lose, but I would be interested in what your analysis is of what you have heard of why behavior like this happens, and maybe it is us.

Maybe it is not the Coast Guard. Maybe it is the Coast Guard egged on by those who on this Committee and elsewhere who protect the Coast Guard and who want to for good reasons protect the Coast Guard. How do you read it? Why has there not been more progress? It is embarrassing, is it not?

Ms. BLAKEY. Well, I will have to say, I am glad I have not been here for the full 10 years of it, so I cannot speak for all the dynamic, but what it would appear—and by the way, I must tell you that 10 years ago I was at the Department of Transportation working well with the Coast Guard and have tremendous admiration for the Coast Guard. It is one of those agencies that wears a white hat for good reason, so from that standpoint I have a healthy respect for their positioning and concerns.

What I suspect is the following. The Coast Guard, of course, has a 200-year-plus history, and are used to doing things a certain way. They also carry responsibility for enforcement issues, for penalties, for making certain that the regulations are carried out to the letter, et cetera. That is the mind set that they come into this with, which immediately, of course, goes to issues of blame and what, therefore, should be the penalty involved.

That is not conducive to learning from the parties involved what really went on in an accident investigation, quickly getting to the bottom of things in terms of the probable cause and, frankly, looking from a much broader standpoint at what the issues are involved that really address public safety. They may or may not be contained within the letter of a set of already prescribed regulations, and that broader set of issues is really our perspective and what we care about, as well as, as I say, we are not looking to cast blame.

We carry no enforcement authority, we carry no regulatory authority, and that does mean that the parties involved will cooperate with the NTSB, I find remarkably so, in our accident investigations. I think the public needs that where you are talking about a marine accident when there are significant issues of public safety. We are only asking for a handful of investigations here. The rest, the Coast Guard should proceed as they do, but in those where public safety is really challenged, and there are a handful every year, we think that it is important that we be given the authority to lead it so that the environment that goes with an enforcement action with the marine board, which is a very formal board, and the way the Coast Guard conducts their investigations can lead to real liability issues for individuals. We think that needs to be set aside so that we are able to get to the bottom of what really went on, and try to make better investigations for the public at large.

Senator ROCKEFELLER. It just does not make a whole lot of sense to me to have an investigation about safety where people have lost their lives or limbs or suffered in some way and then to have a bifurcated responsibility. I mean, yes, you do have the majority of it, but you do not have all that you need. Their life is going to grow a great deal more complicated for the next 20 or 30 years, and your mission continues unabated, and I think you ought to have that responsibility. How often do the two parties try to work this out? Do you sort of meet once a year or something, or is there kind of an ongoing, active—or does it just come to a stalemate?

Ms. BLAKEY. Well, we have met, I believe it is six or seven times in the last 12 months on this, so this effort to achieve an MOU has been a very active one on both sides, but we really have got to a stalemate. I think we got to the point where everyone agreed we simply cannot bridge this difference in positioning.

Senator ROCKEFELLER. So it is a stalemate?

Ms. BLAKEY. I would like to think that with the new commandant perhaps something would change, but we feel at this point we need to come to you.

Senator ROCKEFELLER. Okay, a final question, and then I have some I want to submit to you, if that is okay.

Ms. BLAKEY. Absolutely.

Senator ROCKEFELLER. You have asked for \$76.7 million, which is about \$2.8 million more than the President's budget. He is fairly exacting about that budget. I want to give you a chance to make a case for your needs for additional funding, and the 16 full-time equivalent staff years that you seek.

Ms. BLAKEY. We are basically, of course, looking at the authorization level with an eye to what we believe should be the authorized level for the agency. We do understand that there are budget constraints, and that everyone must operate within them, and we certainly intend to also.

Challenging for us right now is that we have a new academy that is a brand-new responsibility. We are in the early stages of construction and we are looking at business models and ways that we can look for tuition to supplement the cost of running that academy, et cetera.

At the outset, obviously this is going to have to be borne through appropriated funds. As you can appreciate, this is causing a set of

needs that were not there several years ago. Once it is up and running, we are going to have a functioning business model that will certainly supplement from a revenue standpoint the financial needs there.

We also do see, and you touched on this earlier, the need, as we are moving into ever more complex accidents, for a greater degree of specialists, if you will, on our staff in terms of our investigative force. It has become apparent that if we are going to be able to respond to the number of accidents and to the complexity of accidents that we are seeing now, and I must tell you we have launched a remarkable number of accidents in other countries this winter and spring, as I look down where we have had our investigators deployed. It is not around the corner, it is around the world, and these often involve U.S.-manufactured aircraft with vital interests of ours at stake. But nevertheless, we need more bench, because right now if your specialist on structures is in Taiwan and something happens here, it really does cause some vital issues from our standpoint. We would like to develop a greater degree of expertise as well in the new computer systems, the software challenges that are there, because the next accident could very well be caused by an error in a line of computer code as much as it may be in the mechanical system.

So that is the kind of strength we are looking to establish with the additional positions, and as I say, we will work within the constraints that we need to, but that is the concern that we have in bringing the request before you.

Senator ROCKEFELLER. It is a very interesting point, because you mentioned Taiwan. They are in the process of developing a new really high performance corporate jet, but it is going to be in part made in this country and, of course, it will be used in this country or sold in this country. It is going to have to be certified by the FAA, and people forget that often.

They think that well, here Taiwan is building a jet, or somebody is building something or another, and yet the reach of the American Government to make sure that the 30,000 parts that go into that jet, each and every one of them has to be certified and approved, cleared, tested, and then finally certified by the FAA, otherwise Taiwan does not fly jets, and they do not make jets.

So regarding the reach of our Government in terms of safety approval and other important missions, we think in terms of the more conventional and terribly important areas of military and others. But this reaches into approval of parts and investigation of accidents, as it well should, because we have very high standards, and we are not going to see those compromised.

So anyway, I support very much what you are doing, and as Senator Nelson, for a discrete and very hard-working agency. I will support your efforts completely.

Ms. BLAKEY. Thank you, and I should also probably before ending, because I thought after Senator Nelson left, in mentioning the small agency that is supporting us, NASA, that they are doing this entirely out of their own budget, too. They have not asked for any transfer of funds from us, so that shows the level of cooperation that I think we have.

Senator ROCKEFELLER. Which is important, because they have been financially challenged from the start.

Ms. BLAKEY. That is exactly right, and the fact that they did not ask us to reach into our pocket at all I found most impressive.

Senator ROCKEFELLER. Ms. Blakey, thank you very, very much. We are very honored to have you here. I am sorry this is a short hearing, but my colleagues have no further questions.

Ms. BLAKEY. Thank you very much.

Senator ROCKEFELLER. Thank you.

[Whereupon, at 10:20 a.m., the Committee adjourned.]

